



South Carolina House of Representatives

Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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HOUSE WEEK IN REVIEW

The House of Representatives and the Senate adopted the conference report on **S.1026**, a joint resolution providing for the **APPROPRIATION OF SURPLUS FUNDS**.

The legislation was enrolled for ratification. This joint resolution appropriates \$104,934,400 from 2004-05 general fund surplus revenues for the purpose of preventing an accumulated Generally Accepted Accounting Principles (GAAP) deficit in that amount in the State General Fund. The resolution also appropriates \$13,094,604 from fiscal year 2004-2005 state general fund surplus revenues to the State Department of Education for school bus operations, to include the purchase of bus parts and fuel for the school bus fleet. Any of these funds appropriated for school bus operations that are not expended before July 1, 2006, must be carried forward into the succeeding fiscal year and used for the same purposes.

The House returned **S.1061** to the Senate with amendments. The bill authorizes bonded indebtedness for the **SOUTH CAROLINA HERITAGE TRUST PROGRAM**, which is used to preserve areas of ecological or cultural importance. The legislation authorizes the governing board of the Department of Natural Resources, which serves as the trustee of the Heritage Trust, to issue bonds to acquire, restore, improve, and manage additional properties suitable for inclusion in the program. The debt is secured by a pledge of the revenues derived from the portion of the state deed recording fee dedicated to the Heritage Land Trust Fund.

The House approved and sent to the Senate **H.3573**, the “**SAFE SCHOOLS ACT**,” as amended. This bill provides that a person may not engage in harassment, intimidation, or bullying or reprisal, retaliation, or false accusation against a victim, witness, or one with reliable information about an act of harassment, intimidation, or bullying. The bill defines “harassment, intimidation, or bullying” to include acts which are written (including electronic communication), verbal, physical, or sexual and which are reasonably perceived to be motivated by any actual or perceived characteristic that a reasonable person should know has the effect of harming a student or damaging a student’s property, or placing a student in reasonable fear of person harm or property damage; or has the effect of insulting or demeaning a student or group of students causing substantial disruption in, or substantial interference with, the orderly operation of the school. The bill provides that school employees, students, or volunteers who witness or have reliable information that a student has been subject to such acts, shall report the incident to the appropriate school official.

The bill requires local school districts to adopt and to include in certain of its publications and in its employee and volunteer training programs, a policy prohibiting harassment, intimidation, or bullying at school. The content of the policy, although determined locally, must include certain components delineated in the bill. To assist the local districts, the bill requires the State Department of Education to develop model policies applicable to grades kindergarten through twelve.

The bill also requires schools to include on the report cards information related to bullying prevention programs, including a report on the number of bullying incidents.

The bill provides that a school employee or volunteer who promptly reports such incidents in compliance with the district's policy is immune from a cause of action for damages arising from failure to remedy the reported incident.

The House approved and sent to the Senate **H.4391**, a bill pertaining to **INSURANCE POLICY ADVERTISEMENTS AND INFORMATION IN A FOREIGN LANGUAGE**. This bill provides that if an insurer advertises an insurance policy, or the availability of a foreign language informational sheet, or the availability of a translation of an insurance policy in a language other than English, the insurer only needs to provide an English written insurance policy, so long as the advertisement clearly states that the insurance policy is only available in English. Notwithstanding the use of a language other than English in an advertisement, if there is a dispute, the insurance policy is controlling and an advertisement for an insurance policy, informational sheet, or translation may not be construed to modify or change the insurance policy.

The House approved and sent to the Senate **H.4410**, relating to the **PENALTY FOR LATE FILING OF OR FAILURE TO FILE A REPORT OR STATEMENT REQUIRED BY THE ETHICS ACT**. This bill caps the fine at \$5,000 dollars. Presently, there is no cap on fines.

The House amended, approved, and sent to the Senate **H.4289**. This bill repeals Section 16-7-150, the criminal statute pertaining to **LIBEL AND SLANDER**.

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full committee did not meet this week.

EDUCATION AND PUBLIC WORKS

The full committee did not meet this week.

JUDICIARY

The Judiciary Committee met on Tuesday, February 28, 2006.

H.4421 received a favorable report from the full committee. This bill provides that **TEMPORARY PERMITS FOR THE SALE OF BEER AND WINE FOR OFF-PREMISES CONSUMPTION** authorized to be issued in a county or municipality pursuant to the

referendum provided for at that time may continue to be issued or reissued without the requirement of a further referendum.

S.137 received a favorable with amendment report. Under this bill, the **FAMILY COURT MAY ORDER THAT CUSTODY OF A MINOR CHILD BE AWARDED TO THE CHILD'S DE FACTO CUSTODIAN UNDER CERTAIN CIRCUMSTANCES**. 'De facto custodian' means, unless the context requires otherwise, a person who has been shown by clear and convincing evidence to have been the primary caregiver for and financial supporter of a child who: (1) has resided with the person for a period of six months or more if the child is under three years of age, or (2) has resided with the person for a period of one year or more if the child is three years of age or older. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period. No proceeding to establish whether a person is a de facto custodian may be brought concerning a child in the custody of the Department of Social Services.

S.137 provides that a person is not a de facto custodian of a child until the court determines by clear and convincing evidence the person meets the definition of de facto custodian with respect to that child. If the court determines a person is a de facto custodian of a child, that person has standing to seek visitation or custody of that child. The family court may grant visitation or custody of a child to the de facto custodian if it finds by clear and convincing evidence that the child's natural parents are unfit or that other compelling circumstances exist. If the court has determined by clear and convincing evidence that a person is a de facto custodian, the court must join that person in the action as a party needed for just adjudication under the South Carolina Rules of Civil Procedure.

H.4218, which repeals the “**DEAD MAN’S STATUTE**,” was recommitted to the Constitutional Laws Subcommittee.

The full committee adjourned debate on the following:

- **H.4411**, pertaining to **ETHICS AND LOBBYING**
- **S.370**, which relates to **COSTS AND ATTORNEYS FEES FOR ELECTION PROTESTS AND QUALIFIED CIVIL IMMUNITY FOR POLL WORKERS**
- **H.4509**, which relates to the **REVOCATION OF A LICENSE OF A PERSON WHO IS OUT OF COMPLIANCE WITH AN ORDER FOR CHILD SUPPORT**
- **H.4471**, relating to the **JURISDICTION OF ACTIONS PERTAINING TO A COMMERCIAL LEASE RELATIONSHIP**

H.4517, pertaining to **ADMINISTRATIVE LAW COURT HEARINGS AND PROCEEDINGS**, received a favorable with amendment report from the full committee. As of Monday, March 6, the amendment was not available.

LABOR, COMMERCE AND INDUSTRY

The full House Labor, Commerce and Industry Committee met this week to consider amendments proposed for **H.4427**, a bill providing for comprehensive **WORKERS' COMPENSATION REFORM**.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full committee did not meet this week.

WAYS AND MEANS

The full committee met during the week to continue consideration of the 2006-2007 State Budget plan. The committee is scheduled to meet on Tuesday, March 7 to continue its deliberations.

BILLS INTRODUCED IN THE HOUSE THIS WEEK

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4746 *FISHING FOR STRIPED BASS (ROCKFISH) IN LAKE MARION, LAKE MOULTRIE AND THE DIVERSION CANAL* Rep. Jefferson

This bill makes numerous revisions pertaining to fishing for striped bass (rockfish) in Lake Marion, Lake Moultrie, and the Diversion Canal. Revisions include:

- It unlawful to take or possess more than two striped bass per day in Lake Marion, Lake Moultrie, and the Diversion Canal. No size limits apply to this two-fish limit.
- Beginning July 1, 2006, the Department of Natural Resources (DNR) shall increase the number of striped bass fry stocked annually in Lake Marion and Lake Moultrie, by at least ten percent a year for a period of five consecutive years.
- Relating to daily catch limits of five striped bass in certain waters of this state, the bill deletes Lake Marion, Lake Moultrie, and Diversion Canal from the provisions of this section;
- Relating to the provision that requires striped bass taken from certain waters to be at least twenty-one inches in size, the bill deletes Lake Marion and Lake Moultrie from the provisions of this section.

EDUCATION AND PUBLIC WORKS

H.4726 *USE OF CELLPHONE WHILE DRIVING* Rep. Clark

This bill makes it unlawful to operate a motor vehicle while using a hand operated communications device when the vehicle is in motion. Persons who are convicted of violating this provision would be guilty of a misdemeanor punishable by driving license suspensions which increase in duration for successive repeat convictions.

H.4749 *"SUPPORT OUR TROOPS" SPECIAL LICENSE PLATES* Rep. Townsend

This bill authorizes and provides for the issuance of "Support Our Troops" special license plates.

H.4750 *WEIGHING VEHICLES AND LOADS, UNLOADING EXCESS WEIGHT, PENALTIES* Rep. Young

This bill revises the fines associated with the operation of a vehicle which is carrying excess weight and applies this provision also to motor vehicles operating open top trailers used for hauling recyclables, scrap, and waste materials from sites without facilities for weighing. The bill provides that if an operator is found in violation of both gross and axle limits, only one citation may be issued, the fine being for the greater of the two, for that load. No fine may be issued for violation of the vehicle registration statutes if that vehicle is registered for the maximum allowable weight for that class of vehicle. The bill provides monetary penalties for operating a vehicle found to have out-of-service violations, which under the bill is a misdemeanor, and provides that payment of these fines is the responsibility of the owner of the vehicle. The bill provides a fine of one hundred dollars per vehicle against an individual who fails to conduct a safety inspection of a vehicle as required by the Federal Motor Carrier Safety Regulations or fails to have in his possession documentation that an inspection has been performed. The bill also provides that it is a misdemeanor for motor carriers, officers, or agents in charge of them to fail or refuse to permit State Transport Police representatives or employees to examine or inspect their books, records, accounts and documents, or their plants, property, or facilities. The bill provides that each day of such failure or refusal constitutes a separate offense and each offense is punishable by a fine of one thousand dollars.

JUDICIARY

S.774 *DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES' COMMUNITY SUPERVISION PROGRAM* Sen. Thomas

This bill pertains to the Department of Probation, Parole and Pardon Services' Community Supervision Program. The bill provides that the maximum aggregate amount of time a prisoner may be required to serve when sentenced for successive revocations may not exceed an amount of time equal to the length of incarceration imposed limited by the amount of time remaining on the original 'no parole offense'. The bill further provides that the prisoner must not be incarcerated for a period longer than the original sentence.

H.4735 *DETERMINING THE FITNESS OF A PERSON CHARGED WITH A CRIME TO STAND TRIAL* Rep. Harrison

This bill increases from 15 days to 60 days the time within which the mental health evaluation of a person must be completed. Before the expiration of the 60-day period provided for the examination, the examiners may request and upon a showing of good cause, a judge may grant an extension of time of up to 30 days to complete the

examination. If the person or his counsel request, the court may authorize the person to be examined additionally by a designated examiner of his choice. However, the court may prescribe the time and conditions under which the independent examination is conducted. The bill increases from five to ten day the time within which the examiner must submit his report. There is an exception for Saturdays, Sundays and holidays.

With regards to competency hearings and disposition of cases in such hearings, this bill decreases from 60 days to 14 days the time within which the solicitor must initiate judicial commitment proceedings for a person found to be unfit to stand trial. There is an exception for Saturdays, Sundays and holidays. In addition to hospitalizing the person, the bill authorizes the court in such a proceeding to continue the person in detention or on bond.

H.4740 "FLOYD D. SPENCE VETERANS AND OVERSEAS ELECTORS VOTING RIGHTS ACT OF 2006" Rep. Ceips

This bill allows certain qualified electors living outside the United States to register to vote, apply for a ballot, and vote by electronic transmission. The election commission may send and receive voter registration forms and absentee ballot applications and accept ballots from eligible electors via electronic transmission. This bill provides for the use of state and federal write-in absentee ballots to be used in general, special, primary, and run-off elections for local, state, and federal elections. The State Election Commission shall promulgate regulations determining the format of the state write-in absentee ballot. The bill outlines procedures for filling out a write-in absentee ballot and for reporting of the number of these ballots sent out and received. The bill repeals Section [7-15-460](#) relating to the electronic transmission of certain applications and ballots in the event of an emergency.

H.4745 RESTRICTIONS ON DEFICIENCY JUDGMENTS IN CONSUMER CREDIT SALES Rep. W.D. Smith

This bill relates to restrictions on deficiency judgments in consumer credit sales; the bill corrects cross-references to the Uniform Commercial Code.

LABOR, COMMERCE AND INDUSTRY

H.4736 FIRE EQUIPMENT DEALER LICENSES AND PERMITS Rep. Clemmons

This bill further specifies training requirements for obtaining Class D Fire Equipment Dealer Licenses and Permits and provides that the Division of State Fire Marshal shall establish fees for equipment licenses and permits in regulation, which may be revised every two years. The legislation provides that the initial fees may not exceed the current fees of one hundred dollars for licenses and twenty-five dollars for permits.

WAYS AND MEANS

H.4727 AMENDMENT TO 2005 "JOBS CREATION ACT" Rep. Toole

This bill amends the 2005 "Jobs Creation Act" (the Act) by eliminating the small business targeted jobs tax credit from the tax credits and exemptions which are sunsetted in the Act.

H.4737 TAX CREDITS/VALUATION FOR LOW INCOME HOUSING Rep. Edge

This bill provides that federal or state income tax credits for "low income housing" (as defined in the bill) may not be considered with respect to the valuation of real property or in determining the fair market value of real property for property tax purposes. The bill also provides that for properties that have deed restrictions in effect that promote or provide for low income housing, the income approach must be the method of valuation to be used.

H.4739 TARGETED JOBS TAX CREDIT Rep. Toole

This bill allows certain small businesses an alternate method for claiming the targeted jobs tax credit.

H.4743 MILEAGE REIMBURSEMENT TO STATE EMPLOYEES Rep. Clark

This bill provides that when a state employee uses his personal automobile on official business, the mileage reimbursement allowed must not be less than the standard business mileage rate established by the Internal Revenue Service. However, the bill also provides that if a state-provided vehicle is available and the employee requests to use his personal vehicle, a charge of four cents a mile less than the otherwise applicable rate is allowed. The bill prohibits reimbursement of mileage between an employee's home and place of employment except when an employee leaves on a business trip directly from his home and does not go by his headquarters.

H.4744 PROPERTY TAX EXEMPTIONS FOR DISABLED PERSONS Rep. Huggins

This bill exempts from property tax not more than two personal motor vehicles owned or leased solely or jointly by a person classified as permanently and totally disabled by a state or federal agency having the function of classifying persons.

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